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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,823	12/27/2001	Hideki Uchimi	011767	9858

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EXAMINER

KRAMER, JAMES A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/026,823	Applicant(s) UCHIMI ET AL.	
	Examiner James A. Kramer	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Preliminary Matters

Examiner thanks Applicant for the timely response to the questions raised in the interview conducted on 3/1/06. The answers have been noted on the record and used in this Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-12 and 15-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Yon et al. in view of Benson.

Yon et al. teaches a method and system for selecting product colors. Specifically, the Yon et al. teaches a color database (matchable color database) for a product (column 2; lines 30-31). In addition, the host computer provides an interface that permits the purchaser to interact with the host computer system. The interface includes an output portion and an input portion. The output portion conveys information from the host computer system and the input portion is used to convey information to the host computer system (column 2; lines 56-67). Examiner notes that this related to the conditions-designating processing unit.

Yon et al. further teaches that once the host computer revives color information from the user, a search of the color database of available colors for the product commences (column 4; lines 26-28). Examiner notes that this represents the color data transmitting unit.

Yon et al. also teaches an indexing tool which is a spectrum of colors transmitted from the host computer to the purchaser computer for display (column 6; lines 20-24). Examiner notes that the spectrum represents Applicant's gamut. Yon et al. also teaches a virtual color table where the background is the target color and the "n" closest are swatches (column 5; lines 25-27). Examiner notes that this represents Applicant's virtual item coloring process unit.

Yon et al. further teaches that the system is capable of determining whether a vendor has a product in the target color or a color close enough to the target color (column 3; lines 15-20). Examiner note that this represents available stock confirming unit.

Yon et al. also teaches that the host computer includes an order database, access control database, database server and firewall. Where the order database is used to store sample orders made by a purchaser and/or product orders. The access control database operates in conjunction with the firewall to prevent unauthorized access to the host computer and enforce limitations on the authorized access (column 6; lines 63-67 and column 7 lines 1-20). Examiner notes that this represents the customer database and user identification feature required by Applicant's claims.

Examiner notes that it is inherent to the system of Yon et al. that the host computer store information related to dye, resin and pigment. Under MPEP 2112 the Examiner must provide rationale for inherency. Further to establish inherency the missing matter must be necessarily present so that it would be recognized by persons of ordinary skill in the art. It is the Examiner's position that the host system of Yen must store information related to dye, resin and

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pigment, further a person of ordinary skill in the art would recognize that these are fundamental to the coloring process and in order for the system of Yon et al. to provide colors and specifically custom colors this information must be part of the color database.

Yon further teaches a customer initially identifies the product in which they are interested (see for example column 3, lines 34-36). Examiner notes that this represents a predetermined identification of use correlated to the user. However, Yon does not specifically teach storing this product selection (use) in a customer database. In other words, Yon teaches that a user must manually enter the use information each time he/she uses the site, rather than this information being stored in a customer database as required by the claimed invention.

Benson teaches when a user accesses a web site information contained within a cookie is used to access a back-end database to retrieve additional information about the user, such as user's preferences or account information. This database information may then be used to customize the requested web page.

It would have been obvious to one of ordinary skill in the art at the time of the invention modify the selection of products taught by Yon to include storage of the selected product in a back-end database so that when a user accesses the site the information is retrieved as taught by Benson. One of ordinary skill in the art would have been motivated to modify the references in order to customize the conditions-designating screen.

Claims 10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yon in view of Benson and Homma et al.

Yon, as described in detail above teaches all the claimed limitation expect:

With respect to claim 10, Yon does not specifically teach a virtual item coloring processing unit which displays a virtual item conforming to actual requirements.

Homma teaches a visual merchandising control method and system that includes an article display image in a simulated manner. Namely, an image similar to an image actually viewed in a store is presented on a display (see for example column 12, lines 25-44, column 15, lines 46-54 and Figure 23E). Homma further teaches that such features provide a time-saving effect as a user gets to see a representation of the product before purchasing (see for example column 1, lines 50-59).

On of ordinary skill in the art at the time of the invention would have been motivated to modify the system of Yon to include a virtual item coloring processing unit as taught by Homma. One of ordinary skill in the art would have been motivated to make this modification in order to provide customers with a time-saving effect.

With respect to claims 13 and 14, Yon teaches does not specifically teach an available stock confirming unit (claim 13) nor a price supplying unit (claim 14). Examiner notes that Yon does teach the ability to order a quantity of a product in an available color that matches the target color (see for example column 5, lines 63-67).

Homma teaches a visual merchandising control method and system that includes a outputting merchandise information to a user including stock confirmation (see for example Figure 21) and price (see for example column 10, lines 48-59). Homma teaches this information

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is displayed for an easy recognition of the state of display articles (see for example column 10, lines 63-65).

It would have been obvious to one of ordinary skill in the art at the time of the present invention to modify the ordering process of Yon to include an indication of stock availability as well as price, as taught by Homma. One of ordinary skill in the art would have been motivated to make this modification in order to easily recognize the stat of the display articles.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Based on the new grounds of rejection this Office action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James A. Kramer
Examiner
Art Unit 3627

jak

A handwritten signature in black ink, appearing to read 'James A. Kramer', written over a large, loopy, vertical oval shape.